Talking Points Based on Nurse Licensure Compact Opposition

Tri Council is working on cross-border issues due to issues with NLC.

While the Tri-Council (ANA, AACN, AONE, NLN) has been meeting with Nat'l Council of State Boards of Nursing (NCSBN) leadership to discuss cross-border practice and other related topics on an ongoing basis, the group is **not** involved in any revision process of the Nurse Licensure Compact (NLC). The AACN and the AONE have however, endorsed the NLC independent of Tri-Council participation. Many other organizations have endorsed it as well.

We should delay this until we see the amended version of the compact.

While the NLCA and NCSBN are discussing amendments, there is **no current concrete timeline** for completion of the amendments, adoption of a new version, or availability of an amended version for states to enact. A hallmark of the revised version is anticipated to be a provision which limits NLC membership to those states which conduct criminal background checks on licensees upon application for initial license and license by endorsement. Given that Montana has such criminal background legislation currently (HB115) and we anticipate that it will be enacted, there is no necessity for Montana to wait for a future revised compact.

Nurse licensed in a (compact) state without CE requirements who provides care in a state that does require CE is likely to give a lesser quality of care than resident nurses.

There is no evidence to support this claim about lesser quality of care. Nationally, nurses meet the same competency requirement upon entry into the profession, i.e., passing the NCLEX board exam, which is the same in every state.

The compact statute indicates that a licensee is required to meet the licensure and renewal requirements, (including continued competency requirements) in the home state. There is already significant uniformity among NLC states as most have a continued competency requirement. Continued competency is measured in a variety of ways with continuing education being just one method. If Montana were to join the NLC, a nurse from any NLC state would have the privilege to practice in Montana, although, in our experience, it is those states which border Montana which would provide the greatest amount of cross-border traffic. That being said, both Idaho and North Dakota have continued competency requirements in place. Should Wyoming join the NLC, it also has continued competency requirements. **When looking at the NLC member states overall, 22 out of 24 states have some sort of continued competency requirement.** Only Maine and Missouri do not.

There is no agreement or evidence in the literature to support the best indicator of competency between continuing education or active practice experience. Professional nurses as well as employers play a role in ensuring that the nurse providing a specific procedure is competent to do so, particularly in the acute hospital setting.

There is no evidence that continued education equates to competence. Research does not show that nurses who don't obtain CEUs are more prone to disciplinary action. MT only implemented mandatory CE in 2012.

Both the employer and the Board have a stake in a nurse's competency. For some competency issues, the employer is better able to detect and monitor the nurse than the Board. The nurse is under the employer's supervision on a day to day basis.

The variations in the requirements referenced above and the resulting discussion issues are not unique to the NLC. The NLC is a state-based system that is recognized nationally but enforced locally. The NLC does not require all states to function identically. In fact, that would defeat the concept of a state-based system.

Mandatory continuing education is a continued competence methodology. Continued competence is also demonstrated by other methods such as employment in nursing for a specified number of hours or a portfolio process. There is no consensus on which method is the most effective measure. The nurse is required to meet the continued competence requirements in the home state.

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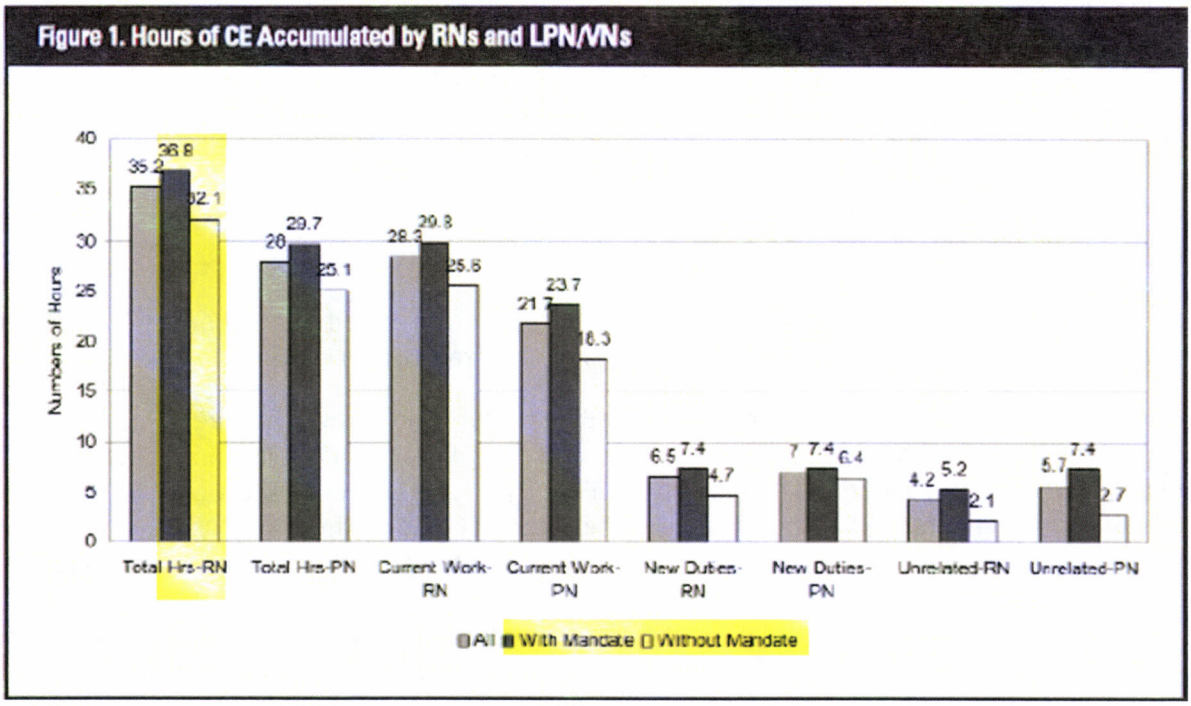
Nurses working side by side will have met core licensure requirements of graduation from an approved education program, successful completion of the NCLEX and licensure by a state board of nursing. The only variation will be the method in which they demonstrate continued competence for licensure renewal.

Continuing education (CE) was the focus of 2003 research by NCSBN. This research found:

a) Nurses tend to accumulate CE hours whether or not they are mandated to do so (see chart below).

The chart below shows that in states where continuing education is not mandated, licensees complete an average of 32 hours of CE.



We will lose authority over the regulation of nursing.

The Executive Director of the MT BON serves as the NLC Administrator of the state. She is also a member of the collective NLCA. She has a voice and a vote on all issues and attends all meetings of the NLCA.

The NLC is based on the Driver License Compact of which MT is a member. Montana did not lose authority over drivers due to being a member of the driver's license compact. (Every state, including MT, is a member of approximately 25 compacts.)

Upon joining the NLC, the BON continues to license and discipline licensees just as it did prior to joining. The BON remains in authority over the regulation of nursing.

If a nurse from another state is practicing in Montana and violates the Nurse Practice Act, Montana has no way of disciplining the nurse.

If a nurse whose home is another compact state, violates the Montana NPA, the MT BON can investigate and discipline the nurse just as if the nurse were a resident of Montana. Further, the NLC provides Montana the authority to issue an order of cease & desist to such a nurse.

A nurse with an encumbered license in one state can fly under the radar in another state to work.

This is not possible because a nurse with an encumbered license in a compact state loses multistate privileges and is restricted to practice in the home state. The license status is reflected as "single state" in the Nursys database. Boards of Nursing are required to enter such data into the system within 10 days.

Open Meetings

The NLCA, as stated in its Articles of Organization, adheres to the federal open meetings laws, so the public is aware of activities of the NLCA.

We won't know who is practicing in our state.

It has never been known exactly who is practicing in the state. Joining the NLC does not create that situation.

Montana issues licenses to non-residents and it is not known when they are practicing in the state.

Nurses are practicing at Veterans Administration facilities and on military bases in Montana with licenses from other states, and the MT BON does not know they are practicing in MT.

Patients all across MT are being serviced by nurses from other states telephonically and it is not known who these nurses are. This already exists and joining the NLC does not create this situation.

Membership in the Nurse Licensure Compact could have a potentially harmful impact on public safety.

The NLC actually enhances public protection. By statute, NLC states share licensee disciplinary/investigative information with NLC member state boards of nursing. NLC states are also required to participate in Nursys, the national licensure database which includes the disciplinary status of licensees.

Nurses who come from a state that does not require Criminal Background Checks can work here.

Montana does not require criminal background checks. If Montana enacts legislation to conduct a criminal background check on applicants for initial licensure, it will still have over 20,000 existing resident licensees who did not undergo a criminal background check.

The Nurse Licensure Compact (NLC) supports fingerprint-based criminal background checks (CBCs) as a Uniform Licensure Requirement. Fingerprint-based CBCs are the most effective method to determine an applicant's complete criminal history. Within the NLC, 19 or 79% of the 24 member states require a CBC from license applicants at the time of initial license by exam. **Five or 21% of the NLC states do not require fingerprint-based CBCs although the boards of nursing (BONs) in those states support attaining the legislative authority for fingerprint-based CBCs. Three of the five states currently have pending criminal background check legislation.** Although these five states do not currently have a fingerprint-based CBC requirement, they have other public protection measures in place. The following facts should be considered by states that may be dissuaded from joining the NLC due to lack of universal fingerprint-based CBC requirements:

- All BONs require initial applicants to self-disclose their criminal history on license applications. The National Council of State Boards of Nursing alerts BONs through Nursys when nurse arrests or convictions are reported in the media.
- Within a state, criminal history information is generally maintained in the state's criminal history repository. Many BONs utilize this repository to determine an applicant's criminal history in that state.
- Most employers screen for criminal backgrounds.
- NCSBN is committed to assisting all states in their efforts to enact fingerprint based CBCs.